Criminal Revision No.2452 of 2004

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Des Raj Versus The State of Haryana

Present: Mr.Hemant Bassi, Advocate,
for the petitioner.

Mr.Yashwinder Singh, AAG, Haryana,
for the State.

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The petitioner, who is facing prosecution for offences under Sections 7 and 13(2) of the Prevention of Corruption Act had filed an application under Section 311 of Cr.P.C. seeking recall of PW-7 Narender Kumar for further cross-examination. This prayer of the petitioner has been declined vide order dated 8.11.2004.

This revision petition has been filed impugning the order dated 8.11.2004. The reasons urged in support of the prayer for re-calling of the witness are that subsequent to his giving evidence, PW-7 Narender Kumar has given an affidavit to the Chief Manager, State Bank of India, Bhiwani to the effect that the money, which had been allegedly given to Desh Raj, was in fact a marginal money as per his understanding. However, during his examination, the witness had denied a specific suggestion in this regard. Permitting recall of the witness for cross-examination on the basis of some subsequent writing by him would mean an unending process and otherwise can not be considered fair mode. The prayer made has rightly been declined and call for no interference. The petitioner, however, has a

right to lead any evidence in defence, which may include this writing of the witness for the court to consider the same in a manner considered appropriate.

The petitioner would be at liberty to produce this piece of evidence through any competent witness in a manner permissible under law. The order impugned in the present petition and which is being upheld, would not stand in the way of the petitioner for leading his defence evidence in this regard. Subject to above observations, the present petition otherwise would stand dismissed.

November 22, 2006 (RANJIT SINGH)
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